



sanitation

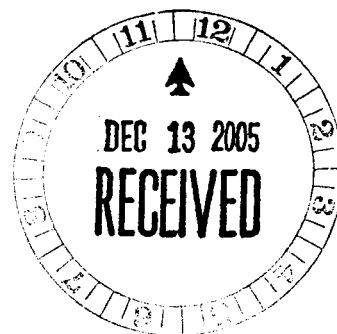
ROBERT ORLIN
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December 12, 2005

215334

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423



Re: Formal Comment on Petition for Declaratory Order
National Solid Wastes Management Association, et al FD-34776

Dear Secretary Williams:

Enclosed please find the comments of the New York City Department of Sanitation on the Petition for Declaratory Order filed by National Solid Wastes Management Association, et al, Finance Docket Number 34776.

Sincerely yours,

Robert Orlin

Robert Orlin

**BEFORE THE
SURFACE TRANSPORTATION BOARD
FINANCE DOCKET NO. 34776
COMMENTS OF THE NEW YORK CITY DEPARTMENT OF
SANITATION ON THE PETITION OF
NATIONAL SOLID WASTES MANAGEMENT ASSOCIATION, ET AL
FOR DECLARATORY ORDER**

New York City Department of Sanitation
125 Worth Street, Room 710
New York, New York 10013
(646) 885-5006

Dated: December 12, 2005

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SURFACE TRANSPORTATION BOARD
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INTRODUCTION

The New York City Department of Sanitation (DSNY) submits comments as an interested municipality responsible for permitting and regulating the siting and operation of all of the City of New York's private solid waste transfer stations. DSNY regulations and its enforcement of such regulations help ensure that the impacts of transfer station operations on residents and the City's environment are minimized.

COMMENTS

State and local laws must apply to all solid waste transfer stations to adequately protect surrounding communities and the environment. Any facility employing a tipping area where solid waste is dumped, processed, sorted or stored is a solid waste transfer station. When a solid waste transfer station is sited adjacent to or abutting a railway, it does not transform the transfer station into a rail carrier. Transportation does not include the processing, sorting or transfer of solid waste when the waste is managed at any point outside of closed containers. DSNY supports the position that intermodal container facilities, where waste is handled in sealed nonpermeable containers, are distinguishable from solid waste facilities, where loose, uncontainerized solid waste is dumped onto a tipping area, often outdoors.

The site operated by RailTech, LLC, in North Bergen, New Jersey is an undeveloped parcel of land on property owned by and abutting the New York Susquehanna & Western Railway, and the site is used to operate an unpermitted solid waste transfer station. This transfer station receives solid waste via transport truck that is dumped onto the ground where it is processed and stored before leaving the facility. The site is not simply a staging area for the intermodal transfer of goods to rail. To protect public health and the environment, this transfer station and other similarly situated facilities must be subject to state and local laws and environmental permitting regulations.

For the foregoing reasons, DSNY urges the Surface Transportation Board to grant NSWMA's Petition for a Declaratory Order.

Respectfully submitted,



Robert Orlin, Deputy Commissioner
Bureau of Legal Affairs

I hereby certify that a true copy of the foregoing Comment was served this 12th day of December, 2005, upon the following by first class mail:

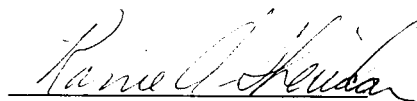
Stephen M. Richmond
Beveridge & Diamond, P.C.
45 William Street - Suite 120
Wellesley, MA 02481-4004

New York, Susquehanna & Western Railway Corporation
1 Railroad Avenue
Cooperstown, NY 13326-1110
Attn: Nathan Fenno, Esq., General Counsel

RailTech, LLC
1034 Hudson Avenue
Ridgefield, NJ 07657


EDNA LUNA

Sworn to before me this
12th day of December, 2005.



NOTARY PUBLIC

KARRIE ANN SHERIDAN
Notary Public, State of New York
No. 02SH6088701
Qualified in Queens County
Commission Expires March 17, 2007